

REPORT TO THE JERICHO DEVELOPMENT REVIEW BOARD

DEVELOPMENT REVIEW BOARD HEARING DATE: September 8, 2016

REPORT PREPARATION DATE: September 1, 2016

APPLICATION TYPE: Major Subdivision

APPLICANT/OWNER: Phylvin Acres LLC

DESCRIPTION: A request for a 2 lot subdivision (Major) of 75.5 acres of undeveloped land into 2 home sites

IDENTIFYING INFORMATION:

LOCATION: 581 Browns Trace Road

PARCEL NO: BT 579

TOTAL ACREAGE: 75.5 Acres

ZONING DISTRICT(S): Rural Residential, Agricultural & Forestry

EXISTING USE: Open undeveloped land

PROPOSED USE: Subdivide land into 2 building lots one of 9.5 acres and the other 66.8 acres (76.3 acres)

NOTICE OF PUBLIC WARNING/ ABUTTERS:

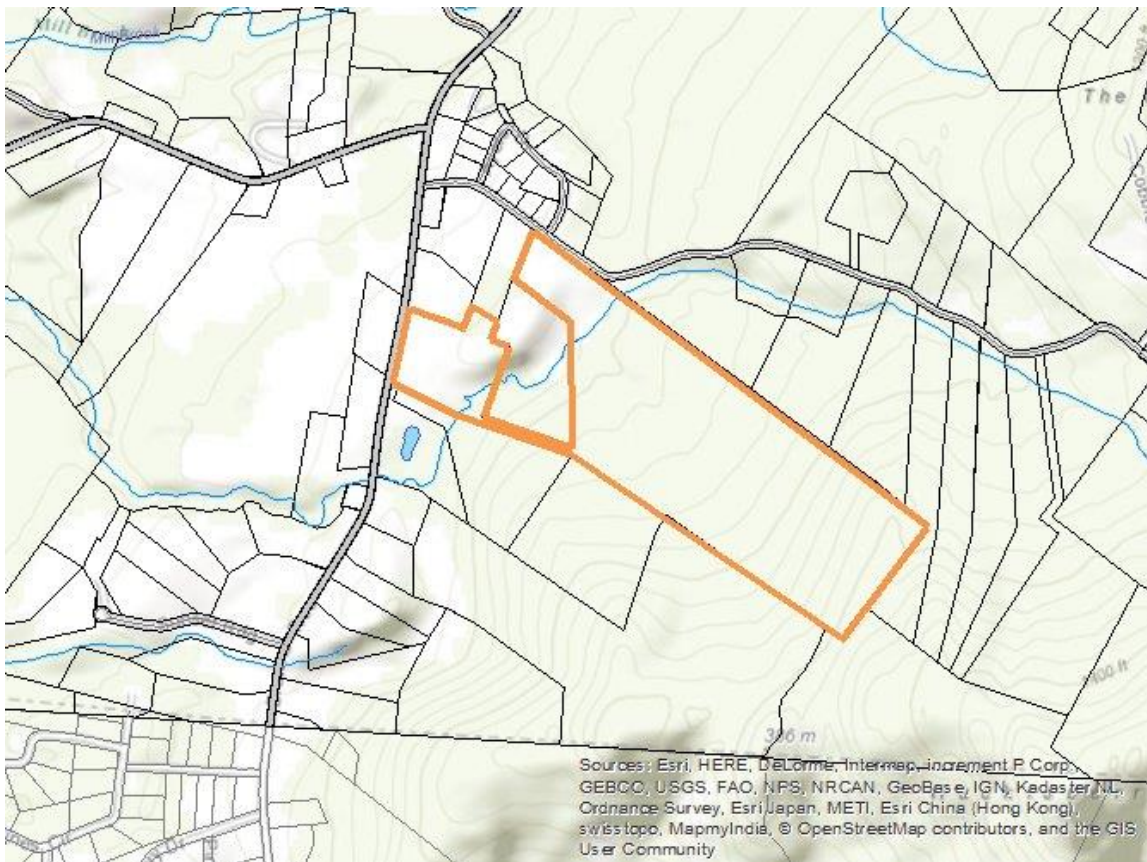
Notice of Public Warning published in the Mountain Gazette on: *August 18, 2016*

Notice of Public Warning posted on: *August 11, 2016*

Notice of Public Warning sent to abutters on: *August 11, 2016*

Notice of Public Warning sent to the applicants on: *August 11, 2016*

LOCATION MAP:



PROJECT OVERVIEW

This application is for a 2-lot subdivision (major – *previously subdivided parcel within a period of 120 months*) with one lot being proposed at 9.5 acres (Lot #3) and the other lot being 66.8 acres (lot #4). The property located at 581 Browns Trace Road. The property is located in 3 Town Zoning Districts Rural Residential (Lot #3), Agricultural & Forestry (Lot #4). The minimum lot size in the Rural Residential District is 3 acres with road frontage of 200' feet. The proposed Lot #3 is 9.5 acres with 495 feet of road frontage along Browns Trace Road. The Agricultural and Forestry Zoning District is 10 acres with road frontage of 400' feet. The proposed Lot #4 is 66.8 acres with road frontage of 450' feet along Milo White Road and will share the driveway for a portion with the abutting neighbor.

PREVIOUS ACTIVITY

In the spring of 2013 the applicants applied for and received an approval for a 3 lot subdivision of 182.53 acres from the DRB. In March of this year (2016) the applicant applied and received an approval from the DRB for a minor subdivision which conveyed 15 acres to an adjoining neighbor. The applicant submitted and the DRB reviewed a sketch plan review for this application on June 23rd.

DEPARTMENTAL REVIEW AND COMMENTS

This application is for a major subdivision, thus subject to §10.12. (Subdivision Review), §11.0 (General Development Standards), §6.4 (Wetlands Overlay District), §6.6 (Wellhead Protection Overlay), §6.7 (Natural Resources Overlay District).

5.0 Dimensional Standards: *The dimensional standards of this section apply to all lots created after the effective date of these regulations. These standards also apply to pre-existing lots unless otherwise specified in Section 5.10. The standards in this section are superseded by the standards in Section 13 for the CD3 & CD4 districts. The application request is in compliance.*

10.12. Subdivision Review

10.12.1. Purpose: *Subdivision review is intended to ensure orderly growth and coordinated development in the Town of Jericho, to guide community settlement patterns, to ensure the efficient extension of services, utilities, and facilities as land is developed, to promote the health, safety, and general welfare of the Town's inhabitants, and to implement the Jericho Comprehensive Town Plan as most recently amended.*

10.12.2. Applicability: *In accordance with the ACT [§4418], Subdivision Review by the DRB is required whenever any subdivision of land is proposed for the purpose of sale, lease or development.*

10.12.3.2. Major subdivisions *shall include any subdivision of land, or the resubdivision of a previously subdivided parcel within a period of 120 months, that results in the creation of four [4] or more lots (not including open land in a PUD) or which requires the construction of any new public or private streets. Major subdivisions shall require preliminary and final*

review approval pursuant to Section 10.12.8 and 10.12.9. This application is being reviewed as a Major Subdivision.

10.12.4. Waiver Authority: No waiver is being requested.

10.12.5. Review Standards: *The Development Review Board may consider and impose appropriate safeguards, modifications, and conditions relative to the following standards:*

10.12.5.1. All subdivisions shall comply with the following General Development Standards found in Section 11 of these regulations. Upon review of the application, the Development Review Board or Zoning Administrator may determine that additional General Development Standards are applicable to a given application, such as:

10.12.5.1.1. Roads/Access: Lot #3 (9.5 acres) will be accessed off of Browns Trace Road which they have applied for a Town access permit for. Lot #4 will from an existing driveway.

10.12.5.1.2. Pedestrian Facilities: Non proposed

10.12.5.1.3. Lot Layout: Lot layouts are in compliance.

10.12.5.1.4. Grading/Slope/Ridgeline: N/A

10.12.5.1.5. Recreation/Open Space/Common Land: Non proposed

10.12.5.1.6. Water Supply and Sewage Disposal: No record of an application.

10.12.5.1.7. Landscaping: Non proposed

10.12.5.1.8. Outdoor Lighting: Non proposed

10.12.5.1.9. Utilities: Services required to underground

10.12.5.1.10. Stormwater: N/A

10.12.5.2. All subdivisions shall comply with any and all applicable Specific Use Standards in Section 4.4 and General Provisions in Section 7. The application is compliant

10.12.5.3. As a condition of approval of the preliminary plan and/or final plan, the Development Review Board may require that the applicant obtain all applicable approvals from municipal officials and State and Federal agencies having jurisdiction over the project. This is at the discretion of the DRB.

GENERAL DEVELOPMENT STANDARDS (10.12.5, 11.1-11.14)

11.1 Roads/Access

11.1.2. Private Driveways: No more than three [3] lots may be served by a private driveway. The interest of the owner of each lot served by a common or shared driveway shall be

protected by an easement recorded in the deed of each lot involved. As proposed each lot is to be served by a private driveway. As mentioned above : Lot #3 (9.5 acres) will be accessed off of Browns Trace Road which they have applied for a Town access permit for. Lot #4 will from an existing driveway.

11.4 Lot Layout

11.4.1. Each lot shall have the minimum area and frontage required by these regulations, unless modified through the Planned Unit Development provisions in Section 10.13 of these regulations. As proposed it appears in conformance. Lot #3 consists of 9.5 acres and is located in the Rural Residential District and lot #4 consists of 66.8 acres and is located in the Agricultural and Forestry Districts. The proposed building site on Lot #4 is located within the Agricultural District.

11.4.2. Lots shall be of sufficient size to provide an adequate building site with suitable areas and adequate isolation distances for sewage disposal and water supply both on site and neighboring properties. The Development Review Board may require larger lots than required by these regulations where deemed necessary because of conditions affecting drainage, sanitary sewage disposal, or water supply.

11.4.5. Each lot shall be provided with satisfactory access to a road meeting the requirements of Section 11.1 of these regulations. As proposed the application is in conformance.

11.4.8. The Development Review Board shall encourage lot layout that will preserve open space areas and significant natural resources. The DRB will have to evaluate the proposal and comment or condition if needed.

11.4.8.1. Building Envelopes: All lots shall have designated building envelopes that shall not include areas within the Wetlands Overlay District, the WHPA-1 of the Wellhead Protection Area Overlay District, and the Natural Resources Protection Overlay District (except as provided by Section 6.7.5.1). The applicant has proposed building envelopes for each lot and the are in compliance.



11.5. Grading/Slope/Ridgeline

11.5.1. All land development and subdivision shall be planned to retain, as much as possible, the natural contours and to conserve the natural cover and soil. The landscape shall be preserved in its natural state, as much as practical, by minimizing tree and soil removal and nonessential grading. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The applicant has proposed building envelopes on each lot that appear to comply, if the DRB would like it could condition an approval incorporating this section.

11.7. Water Supply and Sewage Disposal

11.7.1. No zoning permit shall be issued for any structure requiring facilities for water supply or sewage disposal, including a mobile home, in any district, unless applicable approvals have been obtained from the Vermont Agency of Natural Resources and/or the appropriate Water District. The applicant has not supplied any information designs or applications for water or wastewater systems for the proposed lots, the DRB can condition the approval that no zoning permits be issued for lots #3 & #4 until the applicant has received State of Vermont approval for a wastewater and potable water permit.

11.7.3. Water Supply:

11.7.3.3 If the development will not be served by a public water system, a community system, a system consisting of individual wells, or other means of providing water to the

proposed development shall be designed and installed in accordance with all applicable State regulations and standards. Community water systems shall be designed in such a way that they may eventually be connected to the municipal water supply system. See above. **The DRB can condition the approval that no zoning permits be issued for lots #3 & #4 until the applicant has received State of Vermont approval for a potable water permit.**

11.7.3.4. Evidence of the location and availability of potable water inadequate quantities shall be provided. The DRB may require the applicant to submit well yield information or provide other evidence that sufficient groundwater to serve the development is available. Due consideration in the location of community or individual water systems shall be given with respect to building sites, roadways, septic systems, floodwater levels, aquifer protection areas, and other factors affecting the portability of water supplies. The applicant has proposed drilled wells for each lot, if the DRB is inclined it can seek additional information from the applicant per this section.

11.7.4. Sewage Disposal:

11.7.4.1. All wastewater disposal systems shall conform with the Environmental Protection Rules, Chapter 1, Waste Water and Potable Water Supply Rules published by the Agency of Natural Resources, as most recently amended. The DRB can condition the approval that no zoning permits be issued for lots #3 & #4 until the applicant has received State of Vermont approval for a wastewater and potable water permit.

11.7.4.2. The DRB may defer sewage disposal requirements for a new lot if said lot is greater in size than twenty-five [25] acres, or if the DRB determines that the lot is suitable for agricultural or open space purposes. Language indicating the deferral status for any such lot shall appear on the final plat and in any transfer deed. The applicant has proposed a 2 lot subdivision that contemplates the possible construction of 2 residential units to be served by drilled wells and on site waste system. See proposed condition above.

11.9. Site Layout and Design

The siting and architectural design of the project shall be compatible with existing and planned improvements and the character of the area in which it is to be located, as defined by the purpose of the zoning district, the Jericho Comprehensive Town Plan, and the standards listed below. The Development Review Board should encourage the use of a combination of common materials and architectural characteristics, landscaping, buffers, screens and visual interruptions to create attractive transitions between buildings of different architectural styles

11.9.2. Rural Residential, Village, and Agriculture and Forestry Districts: Site layout and design shall reinforce the rural landscapes of these districts. Development shall be sited to minimize, to the extent feasible, encroachments on natural resources and environmentally sensitive areas including steep slopes, open fields and prominent ridgelines and hillsides. Commercial uses shall be sited so as to blend with the predominately rural/residential character of these areas.

As proposed it appears that the application is in conformance with the associated zoning districts in which they are proposed.

11.12. Utilities

11.12.1. All existing and proposed utilities and utility Rights-Of-Way/easements, including but not limited to electric, telephone, gas, fiber optic and cable television, shall be shown on the final plat. **The application is in conformance.**

11.12.2. All new utilities shall be placed underground from the nearest available port, unless the Development Review Board determines that burial of utilities would result in an undue adverse impact to natural resources or would be prohibitively expensive. Prior to approving overhead utilities, the DRB shall require independent technical review in accordance with Section 10.8.6 to determine if the above conditions are met. **The application is in conformance.**

11.12.3. The applicant shall coordinate development design with utility companies to ensure that suitable areas are available for underground installation within and adjacent to the proposed development. Utility easements of sufficient width shall be provided to serve both the proposed development, and future service extensions to adjoining properties. **The DRB can make this a condition of approval as well as require they are in conformance prior to the issuance of any zoning permits .**

11.13. Storm Water

11.13.1.3. Applicants are encouraged to incorporate Low Impact Development techniques and practices into the stormwater management system. **There is no stormwater management system proposed within this application.**

11.13.2. Erosion and Sediment Control During Construction:

11.13.2.1. At minimum, all construction shall comply with the erosion control practices detailed in the most recent version of the Vermont Agency of Natural Resources Low Risk Site Handbook for Erosion and Sediment Control. **The applicant has proposed building lots & envelopes if the DRB wants it can condition that any future development/building on lots #3 & #4 follow the above mentioned practices.**

11.14. Performance Standards 11.14.1. No land or structure in any zoning district shall be used or occupied in any manner that creates dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining or nearby properties). In accordance with the ACT [§§4414(5)], the following performance standards, as measured at the property line, must be met and maintained in all districts for all uses, except for agriculture and forestry. **The applicant has proposed building lots & envelopes if the DRB wants it can condition that any future development/building on lots #3 & #4 follow the above mentioned practices.**

10.12.9.4. Legal Documents.

The final plat application for a minor or major subdivision shall be accompanied by the following legal documents. Should the Development Review Board determine it necessary to employ an attorney to review any legal documents, the costs of such attorney shall be paid by the applicant.

Issues that may be reviewed include but are not limited to: No legal documents for the proposed application have been supplied for review or evaluation.

10.12.9.4.1. Information on all proposed publicly-owned land, Rights-Of-Way, or easements, including certificate of title, offer of irrevocable dedication, and warranty deed, free and clear of all encumbrances, to be recorded after final acceptance of all streets, easements, parks, or other open space by the Town. There are no easements, ROW or dedications to the Town of Jericho contemplated within this application. N/A

10.12.9.4.2. Copies of agreements or other documents showing the manner in which common property and/or space is to be maintained, including any conservation easements. Any common property and/or open space shall be defined and consistent with the approved site plan. Open space restrictions and reservations shall be permanent. All lots/units shall receive perpetual right for use of common properties and facilities, unless exempt from this requirement by specific action of the Development Review Board. There is no proposed common property/space contemplated within this request. N/A

10.12.9.4.3. Bylaws, Articles of Incorporation, or Covenants of any homeowners association, declaration of condominium, or other applicable legal agreements. Homeowners association responsibility, mandatory membership, and lienable assessment power shall be provided for by the homeowners association documents and individual lot deeds. The association shall have the duty to obtain liability, property, and casualty insurance, and responsibility for expenses relating to management and maintenance of association-owned structures. A provision shall be included for Town takeover in the event of failure of essential services, including the power of the Town to appoint a receiver to assess the property for funds to cure defects in facilities. There are no proposed Articles, Covenants, Associations contemplated within this request. N/A

10.12.9.4.4. All restrictions and covenants to be included in individual deeds. No legal documents for the proposed application have been supplied for review or evaluation.

10.12.9.4.5. Any other data, such as contracts, certificates, affidavits, endorsements, receipts, or other materials or agreements which have been required by the Development Review Board or the Selectboard.

STAFF RECOMMENDATION:

Staff recommends to the DRB that it has 2 options: One is that it either continues the application request because the Final Plat Plan and legal documents (lot deeds) have not been submitted for review. **OR** if the applicant is able to provide a recordable plat of the proposed subdivision with associated legal documents then the DRB may close the public hearing and move to deliberate on the application.